

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD F. HOIRUP, JR., on his own)
behalf and on behalf of all persons)
similarly situated,)

Plaintiff,)

v.)

PROFESSIONAL ENGINEERS IN)
CALIFORNIA GOVERNMENT,)

Defendant.)

02:02-cv-0662-GEB-PAN (JFM)

ORDER

On April 5, 2006, Plaintiff and Defendant filed a Joint Motion for Approval of Class Notice in which they request that Plaintiff's Proposed Notice of Motion For Award of Attorneys' Fees in Class Action be approved and that a briefing schedule be set for Plaintiff's motion for attorneys' fees that has not yet been filed.

Federal Rule of Civil Procedure 23(h) requires "[a] claim for award of attorney fees [in a class action] be made by motion under Rule 54(d)(2)." Rule 54(d)(2)(B) states the time for filing motions for attorneys' fees may be "provided by [] order of the court." An Order filed June 7, 2004, required the parties to file motions for attorneys' fees "no[] later than 30 days after all rights to appeal have expired, or been exhausted or abandoned." Plaintiff abandoned

1 his appeal on January 17, 2006. (See Mot. at 3.) Therefore,
2 Plaintiff had until February 17, 2006, to file a motion for attorneys'
3 fees; however, as of the date this Order was filed no such motion was
4 filed. Therefore, the motion is denied.

5 IT IS SO ORDERED.

6 Dated: June 5, 2006

7
8 /s/ Garland E. Burrell, Jr.
9 GARLAND E. BURRELL, JR.
United States District Judge